APPENDIX A

FIRST FURTHER ANSWER OF DEFENDANT SCOTLAND NECK CITY BOARD OF EDUCATION[1]

8. It is the present intention of this Defendant, and this Defendant makes this continuing representation, that, if and when there is removed the temporary injunction barrier preventing operation under the Statute, Defendant will confine its student body to those students residing within the geographical limits of the town of Scotland Neck, plus or minus such student transfers as may be in conformity to the law and/or Court order or orders applicable to Defendant, and in conformity to a plan of limitation of transfers to be prepared by Defendant and submitted to this Court.

WHEREFORE, this Defendant respectfully prays that:

1. The Court declare to be constitutional Chapter 31 of the 1969 Session Laws of North Carolina;

2. The Court dissolve the temporary injunction heretofore issued in this cause on the 25th day of August, 1969;

3. The Court retain jurisdiction of this cause for the receipt of a plan of transfer to be submitted by the Defendant to the Court and for the hearing of any objection that may be filed thereto.

C. Kitchin Josey
William T. Joyner
Walton K. Joyner
Attorneys for the defendant, Scotland Neck City Board of Education, a body corporate.

[1]Taken from App. 796.

APPENDIX B

ADVERTISEMENT APPEARING IN SCOTLAND NECK COMMONWEALTH

October 10, 1969

Defendant's Exhibit #4

THE SCOTLAND NECK CITY BOARD OF EDUCATION REQUESTS FINANCIAL AID IN DEFENDING ITS POSITION IN COURT

We are defendants in a lawsuit which seeks to destroy our Board. Under order of the Federal Court we may not use any public funds for the conduct of our defense. We are here requesting from the citizens of Scotland Neck donations of money for the conduct of our defense in the Court case and to refund tuition fees.

We shall state here facts of interest to you.

THE PRESENT POSTURE OF OUR LAWSUIT

On the 3rd day of March, 1969, the Legislature of North Carolina responded to the expressed desires of the people of Scotland Neck for a special school district and a special school tax to permit achievement of better schools. The Legislature created a special school district confined to the boundaries of the City of Scotland Neck and to become effective only if and when the people of Scotland Neck approved the formation of the special district and the special tax of 50 cents on the $100.00 of property valuation in the City.

On April 8, 1969, in a special election the people voted for both the special district and the special tax.

This Board was formed and engaged a superintendent

of schools and an expanded staff of teachers and made plans for the conduct of schools which, because of the availability of special funds, promised to be better than the schools heretofore afforded to the City.

On Saturday, August 16, 1969, our Board was notified that it had been made a party to a suit then pending in the Federal District Court before Judge John D. Larkins, Jr. That suit was brought by the Department of Justice of the United States on behalf of the United States. The suit challenged the constitutionality of the Statute under which our school board was created and expected to operate.

Preliminary the suit sought a temporary stay of all of our operations until there could be a final determination of the merits of the case. On August 21, 22, and 23, 1969, a hearing was held on the temporary injunction, together with a Warrenton School case and a Littleton School case before Judges Algernon L. Butler and John D. Larkins, Jr.

On Monday, August 25, 1969, both judges entered orders granting the temporary restraining order sought by the plaintiff, but did not rule on the constitutionality of the Statute. The order in our case restored the status which had existed prior to the adoption of the Statute, suspending the effectiveness of the Statute until the case could be finally determined on its merits. Precisely the order in our case said "that the defendant Scotland Neck City Board of Education and its officers, agents, employees and successors are hereby enjoined from giving any force or effect to the provisions of Chapter 31 and from taking any action pursuant to the provisions of Chapter 31 pending a final determination on the merits of the issues raised in the present action; . . ."

Under the interpretation by the court we may not use any public funds, not even the proceeds of the special tax, for the defense of our case. However, we are permitted to de-

fend the case with funds contributed by individuals for that purpose.

So, we are here asking for contributions for our defense.

There is contemplated a defense in the trial yet to be held before the Federal District Court. If we lose there, it is contemplated that we would appeal the case to the Circuit Court of Appeals for the Fourth Circuit. If we lost there, it is contemplated that we will appeal the case to the Supreme Court of the United States. We are convinced that we have a strong case and that it should be defended vigorously through all three courts, if that becomes necessary.

THE NATURE OF OUR EXPECTED SCHOOL OPERATIONS

Simply stated, it has been at all times and it is still our expectation that unless permanently restrained by court order we will achieve schools which are superior to those heretofore enjoyed in Scotland Neck. It has been our purpose, as was stated in the Statute to "improve and provide public schools of a higher standard for the residents of Scotland Neck." That is precisely what we ask the Legislature for authority to do.

That is precisely what the Legislature said it was authorizing.

That is precisely and only what we expect to do. As an example, in the short four months in which we functioned, the school faculty we employed had the highest percentage of standard certificates of any Scotland Neck School faculty in the past number of years.

Our expectation of success, both in this litigation and in the conduct of the schools, are based primarily on the foundation that we have a situation very unusual in all aspects

and completely unprecedented in some. Here are some of the facts which make our situation unusual, even unique:

1. The special act sets up a special school district with lines which are just the same as those of the long existing city limits. There is no change in the lines.

2. The district embraces all children of school age living in our Scotland Neck Community. It is contemplated by the Statute, it is required by law, it is the intent of this Board that every child living in this community shall be treated just the same, regardless of race, creed or color. There will be no segregation under our operation.

3. The basic school population of our community, would be approximately 57% white and 43% negro. We do not know of any complaint which has ever been made anywhere of such a ratio.

4. Transfers out of or into the Scotland Neck Schools would be made in accordance with a plan or plans of transfer to be prepared by our board and filed with the Court, in order that any objections to such plans could be made to the Court and heard by it.

5. Every operation of our Board would be in the plainest kind of a spotlight, in the spotlight of public opinion and the spotlight of Court observation.

6. It is the firm intent of our Board, and the firm intent of the people of Scotland Neck, to make our new School District work, to make ours an outstanding school, not a "segregated school," not an "integrated school," but just a school "for all our children without regard to race, creed or color."

7. It is our firm conviction that the successful operation of "just a school" would be good for our community of Scotland Neck, good for our County of Halifax, good for

our State and good for our Nation. The welfare of Scotland Neck, and possibly its survival, depends upon the success of just such a school.

WHAT ARE THE PROSPECTS OF SUCCESS?

First, our success in the litigation is not certain. In nearly every case in the Supreme Court of the United States in which an objector has contested a locally proposed plan of school operation the objection has been successful. However, we believe that our case is sufficiently different from all other cases so that when thoroughly understood, our District will be saved. We really believe that we can win. We are certain that we should try to win.

Second, if permitted to operate can we make the School a success?

Of that we are very certain, because of what we believe is an honest and enthusiastic determination of the people of our community to make it work.

So, we ask for your aid in presenting our case. We urge every citizen of the community to contribute to that cause, to contribute not less than the amount that his special school tax would have been this year. In cases of those able to do so we urge a larger contribution. The expense necessary to carry this case possibly through three courts will be very large.

Please make contributions to the Scotland Neck City Board of Education.

Frank P. Shields, Chairman
Martha H. Holloman
Walter T. Anderson
Aubrey Powell
Albert Burke

Send contributions to:

SCOTLAND NECK CITY BOARD OF EDUCATION
c/o Mrs. Martha H. Holloman, Treasurer
P. O. Box 340
Scotland Neck, North Carolina 27874

APPENDIX C[1]

FRANK P. SHIELDS, called as a witness by the defendant Scotland Neck City Board of Education, having been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. JOSEY:

Q. I believe you are Mr. Frank P. Shields, and you are Chairman of the Scotland Neck City Board of Education; is that correct?

A. Yes, sir.

[72] Q. Now, Mr. Shields, I believe your deposition has been taken by the Government or the plaintiff in this action back in, oh, July of 1969; is that correct?

A. Yes, sir.

MR. JOSEY: If your Honor please, I would like to announce at this time that we do not propose to go into anything here, but mainly two things that have occurred since that time.

JUDGE LARKINS: All right. When was that deposition taken, Mr. Kennedy?

MR. KENNEDY: July 24, 1969, your Honor.

JUDGE LARKINS: Very well. You may proceed.

BY MR. JOSEY:

Q. Now, Mr. Shields, I show you here what purports to be a copy of the defendant Scotland Neck City Board of Education's FIRST FURTHER ANSWER that was filed

[1]Taken from the Transcript of the December 17, 1969 Hearing on the Merits (App. 961).

sometime in September, I believe. Would you look at that, please, and be sure that is a copy of it.

A. Yes.

Q. Now, Mr. Shields, although that was not verified, it was filed by your attorneys. I'll ask you if in fact you and other members of the school board, prior to the time that this First Further Answer was filed, met and discussed this First Further Answer, and you and the school [73] board agreed that these were the facts, and that the representations made there were in fact true, and that you would abide by them; is that correct?

A. Yes.

Q. And that you stated there that, "Within the geographic boundaries of the Town of Scotland Neck there now reside approximately 751 students of school age; 56.86 percent of which are white and 43.14 percent of which are Negro." Aren't those the figures that this school board is cognizant of?

A. Yes.

Q. And you also stated there that, "The resident school population is sufficient to constitute an efficient separate school administrative unit, and the special tax funds will enable the Defendant to offer to its resident students an education system which is greatly superior to that heretofore enjoyed by them and superior to that which would be available to them if there were no such tax." And that, "Defendant made arrangements to operate such an improved school system in Scotland Neck for the school year 1969-1970." And you do now swear that that is the intention of the board, and that the board is cognizant of that fact?

A. Yes.

Q. And I'll ask you if this statement is true and [74] was

discussed with the board and is still yours and the board's representation to the Court:

"It is the present intention of this Defendant, and this Defendant makes this continuing representation, that, if and when there is removed the temporary injunction barrier preventing operation under the Statute, Defendant will confine its student body to those students residing within the geographical limits of the Town of Scotland Neck, plus or minus such student transfers as may be in conformity to the law and/or Court order or orders applicable to Defendant, and in conformity to a plan of limitation of transfers to be prepared by Defendant and submitted to this Court."

I ask you if that wasn't in fact discussed with this board, and that the board agreed that that was what they are willing to represent to the Court and do so at this time?

A. Yes.

Q. And didn't you also ask that, "The Court retain jurisdiction of this cause for the receipt of a plan of transfer to be submitted by the Defendant," or the Scotland Neck City Board of Education, "to the Court and for the hearing of any objection that may be filed thereto"?

A. Yes.

Q. Didn't you also as a city board of education—[75] will your Honor give me just one minute?

JUDGE LARKINS: Yes, sir.

BY JUDGE LARKINS:

Q. May I inquire, Mr. Shields, what is the capacity of the Scotland Neck facilities to which you say there is being projected an enrollment of 751 students?

A. I couldn't say exactly, Judge Larkins, but there are

now in attendance there about—somewhere between 830 and 850 students. And I would say it would accommodate up to—well, in the permanent classrooms probably 900.

JUDGE LARKINS: You may proceed.

BY MR. JOSEY:

Q. I show you here the defendant Scotland Neck's Exhibit 4 and ask you if that is in fact a copy of a newspaper advertisement which you and the members of this school board ran for two separate weeks in the *Scotland Neck Commonwealth* in the early part of October of this year?

A. Yes.

MR. KENNEDY: Your Honor, we have no objection to the authenticity. We admit the authenticity of all of these exhibits.

JUDGE BUTLER: Has that been marked and identified?

[76] MR. JOSEY: Yes, sir, it has already been introduced. This is just another—

JUDGE BUTLER: What is the exhibit number?

MR. JOSEY: No. 4.

JUDGE BUTLER: That's Defendant's Exhibit 4?

MR. JOSEY: Yes, sir.

Q. What I would like to ask you is if in that advertisement did you notify the entire population of the Town of Scotland Neck that the district of this city administrative unit, the Scotland Neck School, "embraces all children of school age living in our Scotland Neck Community. It is contemplated by the Statute, it is required by law, it is the

intent of this Board that every child living in this community shall be treated just the same, regardless of race, creed or color. There will be no segregation under our operation.

"The basic school population of our community would be approximately 57% white and 43% Negro. We do not know of any complaint which has ever been made anywhere of such a ratio.

"Transfers out of or into the Scotland Neck Schools would be made in accordance with a plan or plans of transfer to be prepared by our board and filed with the Court, in order that any objections to such plans could [77] be made to the Court and heard by it.

"Every operation of our Board would be in the plainest kind of spotlight, in the spotlight of public opinion and the spotlight of Court observation.

"It is the firm intent of our Board, and the firm intent of the people of Scotland Neck, to make our new School District work, to make ours an outstanding school, not a 'segregated school,' not an 'integrated school,' but just a school 'for all of our children without regard to race, creed or color.'

"It is our firm conviction that the successful operation of 'just a school' woudl be good for our community of Scotland Neck, good for our County of Halifax, good for our State and good for our Nation. The welfare of Scotland Neck, and possibly its survival, depends upon the success of just such a school."

Isn't that what you published in the paper, you and members of the board?

A. Yes.

Q. And is that your present intention, and do you represent that to the Court at this time under oath?

A. Yes, that is my intention and as far as I understand it is the intention of every member of the board.

Q. And all members are here with you at this time?

A. All members are present.

[78] Q. And what is your present appraisal of the sentiment in the community of Scotland Neck in accepting and operating the school as you and the board have set forth?

A. I feel that the community wants it. I feel that they are willing to accept the plan as outlined. I think they are willing to support the school, and their purpose is that they want a better education for their children there in Scotland Neck.

MR. JOSEY: All right, sir. Your witness.

MR. KENNEDY: No questions, your Honor.

BY JUDGE LARKINS:

Q. Did you receive any response to this?

A. Yes, sir. It was an appeal for donation of funds to finance our fight here in court, and we have received a good response I think from it.

JUDGE LARKINS: Very well. Call your next witness.

MR. JOSEY: I would like at this time, your Honor to—

If these members of the board agree with what Mr. Shields has said, hold up your hand.

I would like for the record to show that each member of the board held up his hand.

I would like to tender those other four witnesses, the

members of the Scotland Neck [79] School Board to this Court and to the Department of Justice.

MR. KENNEDY: No questions.

JUDGE BUTLER: Take a recess until 2:30.

AFTERNOON SESSION

Wednesday, Dec. 17, 1969

APPENDIX D[1]

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C.
September 15, 1970

NORTH CAROLINA
HALIFAX COUNTY

W. Henry Overman, being duly sworn, says that:

1. He is Superintendent of Schools of the Halifax County School Administrative Unit, Halifax, N. C.
2. And that he has on September 15, 1970 received reports from all principals of schools in the Halifax County School Administrative Unit giving the latest enrollment of pupils by races as follows:

School and Grade	*White*	*Negro*	*Indian*	*Total*
Aurelian Springs (K-8)	318	583	6	907
Bakers (1-8)	0	266	0	266
Brawley (1-9)	226	650	0	876
Dawson (1-8)	26	421	0	447
Eastman (8-12)	0	709	68	777
Enfield (9-12)	63	418		481
Everetts (1-8)	309	406	0	715
Hollister (1-7)	0	283	138	421
Inborden (1-8)	52	1130	0	1182
McIver (1-8)	0	565	0	565
Pittman (1-7)	2	443	2	447
Scotland Neck (10-12)	91	524	0	615
Thomas Shields (1-8)	39	222	0	261
Tillery Chapel (1-8)	10	209	0	219
White Oak (1-7)	2	302	21	325
Wm. R. Davie (9-12)	302	585	0	887
	1440	7716	—	9391

W. Henry Overman

Sworn to and subscribed before me this 15 day of September, 1970.

Doris W. Netherland
Notary Public

My commission expires: 9-9-75

[1]Taken from App. 1100, 1102 and 1153.

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C. 27839
December 2, 1970

NORTH CAROLINA
HALIFAX COUNTY

W. Henry Overman, being duly sworn, says that:

1. He is Superintendent of Schools of the Halifax County School Administrative Unit, Halifax, N. C.
2. And that he has on December 2, 1970 received reports from all principals of schools in the Halifax County School Administrative Unit giving the latest enrollment of pupils by races as follows:

School and Grade	*White*	*Negro*	*Indian*	*Total*
Aurelian Springs (K-8)	324	562	6	886
Bakers (1-8)	0	266	0	266
Brawley (1-9)	212	670	0	882
Dawson (1-8)	23	419	0	442
Eastman (8-12)	0	690	62	752
Enfield (9-12)	66	423	0	489
Everetts (1-8)	333	385	0	718
Hollister (1-7)	0	270	151	421
Inborden (1-8)	54	1117	0	1171
McIver (1-8)	0	572	0	572
Pittman (1-7)	2	446	2	450
Scotland Neck (10-12)	93	538	0	631
Thomas Shields (1-8)	34	229	0	263
Tillery Chapel (1-8)	10	209	0	219
White Oak (1-7)	12	308	22	332
Wm. R. Davie (9-12)	300	636	0	936
	1453	7740	243	9436

W. Henry Overman

WHO:ar

Sworn to and subscribed before me this 2nd day of December, 1970.

Doris W. Netherland
Notary Public

My commission expires: 9-9-75

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C. 27839
October 14, 1971

NORTH CAROLINA
HALIFAX COUNTY

W. Henry Overman, being duly sworn, says that:

1. He is Superintendent of Schools of the Halifax County School Administrative Unit, Halifax, N. C.
2. And that he has on October 7, 1971 received reports from all principals of schools in the Halifax County School Administrative Unit giving the latest enrollment of pupils by races as follows:

School and Grade	*White*	*Negro*	*Indian*	*Total*
Aurelian Springs (K-8)	333	611	8	952
Bakers (1-8)	0	241	0	241
Brawley (1-9)	174	659	0	833
*Dawson (1-8)	32	405	0	437
Eastman (8-12)	1	686	70	757
Enfield (9-12)	34	433	0	467
Everetts (1-8)	264	415	0	679
**Hollister (1-7)	1	264	151	416
Inborden (1-8)	48	1035	0	1083
McIver (1-8)	0	508	0	508
Northwest at Wm. R. Davie (9-12)	249	632	0	881
Pittman (1-7)	1	421	2	424
Scotland Neck (10-12)	70	515	0	585
Thomas Shields (1-8)	37	227	0	264
Tillery Chapel (1-8)	9	214	0	223
White Oak (1-7)	2	319	23	344
	1255	7585	254	9094

* One Oriental student included in White
** One Spanish Surnamed American student included in White

W. Henry Overman, Superintendent

Sworn to and subscribed before me this 14th day of October, 1971.

Doris W. Netherland
Notary Public

My commission expires: 9-9-75

APPENDIX E

TABLE I

PUBLIC SCHOOL ATTENDANCE IN HALIFAX COUNTY UNDER COURT ORDERED PLAN[1]

	White	*Black*	*% Black*
1968-69	2357	8196	77.7
1970-71	1453	7740	84.2
1971-72	1255	7585	85.8

1. The figures for the year 1968-69 are taken from plaintiff's Exhibit #13, (App. 726-745) and from the deposition of W. Henry Overman (App. 218), while the figures for the years 1970-71 and 1971-72 are taken from the December 2, 1970 affidavit and the October 14, 1971 affidavit, respectively, of W. Henry Overman (App. D and App. 1102, 1153). The last column in the table above gives the percentage of the total of the white and black columns. If the 102 Indians residing in District II and District III were added to these figures, the percentages would be slightly less.

TABLE II

PUBLIC SCHOOL ATTENDANCE IN DISTRICT I UNDER COURT ORDERED PLAN[2]

	White	*Black*	*% Black*
1968-69	786	2516	76.0
1970-71	372	2331	86.2
1971-72	322	2261	87.5

2. The figures for this table are taken from the same sources cited in Note 1 above; however, here the figures are only for the six schools in district I: Scotland Neck, Brawley, Bakers, Tillery Chapel, Thomas Shields and Dawson.

(Slip Opinion)

NOTE: Where it is deemed desirable, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES *v.* SCOTLAND NECK CITY BOARD OF EDUCATION ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 70–130. Argued February 29, and March 1, 1972—Decided June 22, 1972*

A state statute authorized creation of a new school district for Scotland Neck, N. C., a city that was part of the larger Halifax County school district, then in the process of dismantling a dual school system. The District Court in this litigation instituted by the United States enjoined implementation of the statute as creating a refuge for white students and promoting school segregation in the county. The Court of Appeals reversed, ruling that the statute's impact on dismantling the county dual system was minimal and that it should not be regarded as an alternative desegregation plan for the county since it was enacted by the legislature and not by the school board. *Held:* Whether the action affecting dismantling of a dual school system is initiated by the legislature or by the school board is immaterial, *North Carolina Board of Education* v. *Swann*, 402 U. S. 43; the criterion is whether the dismantling is furthered or hindered by carving a new school district from the larger district having the dual school system, and a proposal that would impede the dismantling process may be enjoined. *Wright* v. *Council of City of Emporia, ante*, p. —. Pp. 4–7.

442 F. 2d 575, reversed.

STEWART, J., delivered the opinion of the Court, in which DOUGLAS, BRENNAN, WHITE, and MARSHALL, JJ., joined. BURGER, C. J., filed an opinion concurring in the result, in which BLACKMUN, POWELL, and REHNQUIST, JJ., joined.

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*Together with No. 70–187, *Cotton et al.* v. *Scotland Neck City Board of Education et al.*, also on certiorari to the same court.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

Nos. 70–130 AND 70–187

United States, Petitioner, 70–130 *v.* Scotland Neck City Board of Education et al. Pattie Black Cotton et al., Petitioners, 70–187 *v.* Scotland Neck City Board of Education et al.	On Writs of Certiorari to the United States Court of Appeals for the Fourth Circuit.

[June 22, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

The petitioners in these consolidated cases challenge the implementation of a North Carolina statute authorizing the creation of a new school district for Scotland Neck, a city which at the time of the statute's enactment was part of a larger school district then in the process of dismantling a dual school system. In a judgment entered the same day as its judgment in *Council of the City of Emporia* v. *Wright*, 442 F. 2d 570, a decision which we reverse today, *ante*, at p. —, the Court of Appeals held that the District Court erred in enjoining the creation of the new school district.

Scotland Neck is a community of about 3,000 persons, located in the southeastern portion of Halifax County, North Carolina. Since 1936, the city has been a part of the Halifax County Administrative Unit, a school district comprising the entire county with the exception